

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

CODRIN NICOLAU

PETITIONER

V.

CIVIL ACTION NO. 3:23-CV-3060-KHJ-MTP

WARDEN BAYSOORE

RESPONDENT

ORDER

Before the Court is the [9] Report and Recommendation of United States Magistrate Judge Michael T. Parker. The Report recommends granting Respondent's [8] Motion to Dismiss and dismissing as moot the [1] Petition for Writ of Habeas Corpus. The Court adopts the Report, grants the Motion to Dismiss, and dismisses as moot the Petition.

Pro se Petitioner Codrin Nicolau filed this habeas action in November 2023. [1] at 1. At that time, he was incarcerated in a federal prison. *See id.* His Petition asserted that he had earned First Step Act (FSA) time credits, which the Bureau of Prisons (BOP) had not applied to his sentence. *See id.* at 2, 6–7. Nicolau requested release from custody. *Id.* at 8, 14.

In April 2024, Respondent moved to dismiss the Petition as moot. [8] at 1–2. Respondent explained:

Nicolau's petition is now moot as he has received 132 days of FSA credit representing the amount of time he was entitled to pursuant to the FSA. Furthermore, he is no longer in the custody of the BOP and is in the custody of ICE, another federal agency, over whom the BOP has no control.

Id. at 2; *see also* Landers Decl. [8-2] ¶ 5 (stating that Nicolau was “released from [the] Bureau of Prisons via a First Step Act release”).

The Report accordingly recommends granting the Motion to Dismiss and dismissing the Petition as moot. *See* [9] at 1–3. The Report notified Nicolau that failure to file written objections would bar further appeal in accordance with 28 U.S.C. § 636. *See id.* at 3–4.

When no party objects to a Magistrate Judge’s report, the Court need not review it de novo. *See* 28 U.S.C. § 636(b)(1). Instead, the Court can apply the clearly erroneous, abuse-of-discretion, and contrary-to-law standard of review. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam).

Nicolau did not object to the Report, and the time to do so has passed. The Court finds that the Report is not clearly erroneous or contrary to law. So the Court adopts the Report as the opinion of this Court.

The Court has considered all arguments. Those not addressed would not have changed the outcome. For the stated reasons, the Court ADOPTS the [9] Report and Recommendation of United States Magistrate Judge Michael T. Parker; GRANTS Respondent’s [8] Motion to Dismiss; and DISMISSES as moot Petitioner’s [1] Petition for Writ of Habeas Corpus. The Court will issue a separate final judgment consistent with this Order.

SO ORDERED, this 18th day of June, 2024.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE